



## **Request for City Council Committee Action From the Department of Public Works**

**Date:** April 17, 2012

**To:** Honorable Sandra Colvin Roy, Chair Transportation & Public Works Committee

**Referral:** Honorable Betsy A. Hodges, Chair Ways & Means Committee

**Subject:** **Cedar Lake Trail Phase III Payment for Easements**

### **Recommendation:**

- A. That the City Council approve the payment of the remaining amount due pursuant to the condemnation award in favor of Best Price Properties, Inc. and C.W. Inc. (dba Colonial Warehouse) (\$1,180,000) and associated interest for the acquisition of a permanent trail easement and related easements in association with the Cedar Lake Trail Phase III Project and authorize the City Attorney or outside counsel to execute any documents necessary to effectuate the payment; and
- B. That the City Council authorize the Director of Public Works, the City Attorney, and City Finance Director to approve payment to Best Price Properties, Inc. and C.W. Inc. of attorneys fees, appraisal fees, costs and disbursements pursuant to their claim for reimbursement under Minn. Stat. Ch. 117 in such amount as is recommended by the City Attorney or outside counsel or is determined by the Court.

### **Previous Directives:**

- Resolution 2009R-079 (March 6, 2009) Authorizing the acquisition through negotiations or condemnation of temporary construction easements and permanent easements across the parcels therein for trail and other transportation-related uses.

**Prepared by:** Brette Hjelle, Public Works Director of Administration

### **Approved by:**

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Steven A. Kotke, P.E., City Engineer, Director of Public Works

**Presenters:** Jack Yuzna, P.E., Principal Project Engineer,  
Department of Public Works, Transportation Planning & Engineering Division

**Reviews** Not Applicable

### **Financial Impact**

Action is within current department budget

### **Community Impact**

Neighborhood Notification: Not Applicable

City Goals: The city's infrastructure will be well-maintained, people will feel safe in the city.

Comprehensive Plan: Not Applicable

Zoning Code: Not Applicable

**Background/Supporting Information**

City staff worked with the representatives of Best Price Properties, Inc. and C.W. Inc. (dba Colonial Warehouse) on how the Cedar Lake Trail Phase III project would pass along its property. In order to maintain the project schedule, on March 6, 2009 the City Council authorized the use of eminent domain to acquire the necessary easements.

The City and Best Price Properties, Inc. and C.W. Inc. (dba Colonial Warehouse) were unable to reach an agreement on the value of the permanent trail easement. The issue was brought before three court appointed commissioners for a valuation determination. The commissioners determined the value to be \$1,550,000.

The City made a \$370,000 deposit with the District Court Administration on September 3, 2009. The balance owed to the property owners is \$1,180,000 plus interest. Since no appeals were taken from the commissioners' determination, it is the legal duty of the City to promptly pay the remaining principal balance of \$1,080,000 plus interest accrued on the unpaid balance.

The trail was completed in the fall of 2011. This action resolves all property issues related to the project, except for the anticipated claim by Best Price Properties, Inc. and C.W. Inc. for reimbursement of attorney's fees, appraisal fees, costs and disbursements incurred in the condemnation. That claim has not yet been submitted for payment. It is recommended that the Director of Public Works, Finance Director and City Attorney be authorized to approve payment of the claim in such amount as they and outside counsel may negotiate or as is determined by the Court.